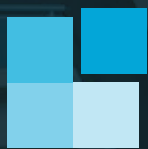


Regulatory Changes Affecting Letting Agents and Landlords in 2020



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Introduction

2019 was a testing year in the private rented sector. **The Tenant Fees Act 2019** came into force in June. This complicated piece of legislation was the centre of much controversy. According to our [recent industry report](#), 98% of letting agents surveyed reported that they had lost revenue due to the tenant fee ban, with one-fifth of them recording more than a 20% dip in revenue. As a result, many landlords faced increased fees for agency services.

The Tenant Fees Act 2019 was not the only change seen in 2019. **The Homes (Fitness for Human Habitation) Act 2018** came into force in March and **The Property Ombudsman also updated its Code of Practice** concerning letting agents. Whilst these were welcome, positive changes aimed at raising standards in rental properties, it is also undeniable that letting agents and landlords had plenty to study to remain completely compliant.



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As we enter a new decade, uncertainty seems to be the only certainty. To succeed in the new 20s, letting agents and landlords must stay on top of any new legal and regulatory requirements governing their property management approach and the standards of the rental properties themselves. In this ebook, we look at key changes coming into effect in 2020:

JANUARY

- UK: Anti-Money Laundering Regulations Comes into Effect (EU Fifth Money Laundering Directive)

MARCH

- England: Homes (Fitness for Human Habitation) Act 2018 Extends to More Tenancies

APRIL

- England and Wales: Domestic Minimum Energy Efficiency Standard (MEES) Regulations Grace Period Ends
- UK: Capital Gains Tax Relief

JUNE

- England: The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (subject to parliamentary approval)
- England: Tenant Fees Act 2018 Transition Period Ends

DISCLAIMER: This ebook is intended for information only and does not constitute legal advice. If you have any questions related to issues in this ebook, we strongly advise contacting a legal professional.

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January

UK: Anti-Money Laundering Regulations Comes into Effect (EU Fifth Money Laundering Directive)

Despite this being an EU directive and the UK has already exited the union, the implementation of the directive is very much set in stone. With the [Money Laundering and Terrorist Financing \(Amendment\) Regulations 2019](#) laid in Parliament, this directive is transposed into the UK and came into effect on **10 January 2020**. While estate agents should already be familiar with the directive, the new regulations will expand the anti-money laundering duty to residential and commercial letting agents. Letting agents who deal in a rental property with a monthly rent of 10,000 euros or above will be required to carry out customer due diligence checks amongst other anti-money laundering requirements.



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Part 3 of the regulations is particularly important:

"(7A) A letting agent must also apply customer due diligence measures in relation to any transaction which consists of the conclusion of an agreement for the letting of land (within the meaning given in regulation 13(7))—

- (i) for a term of a month or more, and
- (ii) at a rent which during at least part of the term is, or is equivalent to, a monthly rent of 10,000 euros or more.

(7B) The letting agent must apply customer due diligence measures under paragraph (7A) in relation to both the person by whom the land is being let, and the person who is renting the land."

The new guidance is expected to be published soon by HMRC. In the meantime, agents who have previously carried out customer due diligence checks should extend the practice to their lettings business. Those who have not yet adopted the practice can take a look at an existing [anti-money laundering guidance for sales agents](#).



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March

England: Homes (Fitness for Human Habitation) Act 2018 Extends to More Tenancies

In this ebook we refer to this piece of legislation as the 'Homes Act'. The Homes Act ensures landlords maintain rental properties which are 'fit for human habitation'. Should the property be substandard, the tenant may be able to take their landlord to court. "The court can make the landlord carry out repairs or put right health and safety problems. The court can also make the landlord pay compensation to the tenant." ([Guidance from GOV.UK](#))

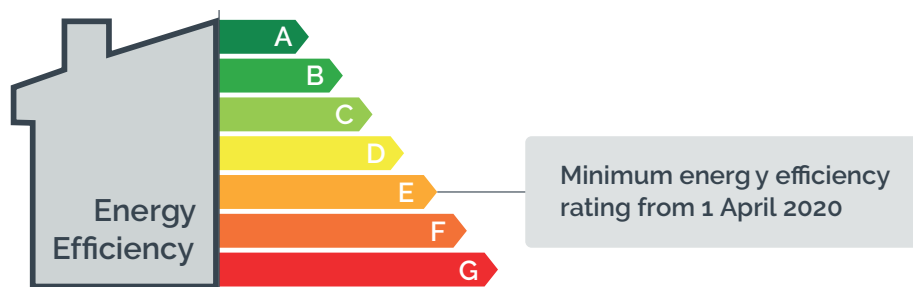
While the Homes Act had come into force in March 2019, only tenancies commencing after 20 March 2019 were covered by the new law. This included tenants who sign a new tenancy agreement for a home they currently live in, or a new home, or whose tenancy becomes a periodic tenancy on or after 20 March 2019. (Generally, tenancies start with a fixed term of six months or one year. If the tenancy continues after the fixed term ends, it becomes a 'periodic tenancy'.)

The Homes Act will extend to almost all tenancies on 20 March 2020. Apart from tenants whose private tenancy had started before 19 March 2019 and is still within the fixed term, all can use the Homes Act regardless of when their tenancy commenced. Letting agents and landlords should already be well aware of the Homes Act and the Human Health and Safety Rating System (HHSRS). The HHSRS sets out 29 types of hazards in unsafe homes. Make sure all your properties are free of such hazards by taking a proactive maintenance approach.

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April

England and Wales: Domestic Minimum Energy Efficiency Standard (MEES) Regulations Grace Period Ends



The MEES regulations set a minimum energy efficiency level for private rented properties in England and Wales. The regulations came into effect in April 2018 with a grace period of two years for tenancies which had started before 1 April 2018. **This means that on 1 April 2020, all rented properties must meet the MEES**, which is currently a rating of "E" on a valid Energy Performance Certificate (EPC). Failure to comply can result in steep fines (up to £2,000 at the first compliance notice and up to £5,000 if the property continues to be rented for over three months). It is more cost-effective, and better for the environment, for landlords to pay for energy efficiency improvement works.

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UK: Capital Gains Tax Relief

Capital gains tax is payable when you sell a property that is not your main residence. In the **2020/2021 tax year, starting on 6 April 2020, capital gains tax is likely to increase significantly for landlords.** The tax amount payable is calculated by deducting any private residence relief and lettings relief from your capital gained from the sale of a property. These tax breaks, however, are going to be reduced, leaving landlords with a hefty tax bill should they sell their buy-to-let properties. Lettings relief is also going to be scrapped for landlords unless they share a home with their tenant(s). This reduction in tax relief is also going to affect those selling land, business premises and inherited properties.

The new payment term for this tax will make things even harder for landlords. Sellers will be asked to pay the full amount of the tax owed on a sale within 30 days rather than by the end of the tax year - a significant burden on cash flow.

For the most up-to-date guidance on private residence relief and lettings relief, check out [GOV.UK](https://www.gov.uk) It is crucial to seek professional advice when working out your tax liability. You could end up owing the HMRC tens of thousands of pounds if you fail to understand your tax liability correctly before the sale of a property. Nobody wants a surprise tax bill delivered in a brown HMRC envelope.



Regulatory Changes Affecting Letting Agents and Landlords in 2020

June

England: The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (subject to parliamentary approval)

The news about mandatory electrical installation inspections and testing dominated the headlines in the second week of January. Whilst the regulations have yet to be approved by either House of Parliament, the Government's intention for them to come into force on **1 June 2020** is clear. Should the timeline be extended, they can still be expected to come into effect in the near future.

The regulations will require electrical installation inspections and testing to be carried out by a qualified person every five years. Landlords must obtain a report of the results and supply it to new tenants before they move in. They must also supply it to any prospective tenant within 28 days if they ask. The latest report should be retained for the qualified person who will carry out the next inspection and test.



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Every agent and landlord must stay on top of this as the regulations will directly affect new tenancies starting from **1 July 2020**, and existing tenancies from **1 April 2021**. Note that many types of tenancies will be excluded from the new regulations (such as student accommodation, social housing), but ASTs (assured shorthold tenancies) of rented homes are almost certainly going to be included.

Curiously, there is no clear definition on what a qualified person means. The current wording merely refers to a 'competent' person, though it would not be surprising for contractors registered with The National Inspection Council for Electrical Installation Contracting (NICEIC) to be considered sufficiently competent to carry out such inspections and tests.

Despite initial concerns raised by ARLA Propertymark about the number of engineers available to assess all rented homes in England before April 2021, the Ministry of Housing, Communities and Local Government was confident about the capacity in the supply chain. Nonetheless, agents and landlords should begin their compliance audit on existing tenancies and start commissioning the required inspections and tests now to get ahead of the curve.

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England: Tenant Fees Act 2018 Transition Period Ends

When the Tenant Fees Act 2018 came into effect on 1 June 2019, a grace period of one year was put in place allowing tenancies which had started before that date to smoothly comply with the new rules. This is coming to an end **on 1 June 2020, meaning the Tenant Fee Ban will become binding on all tenancies.** While [periodic tenancies do not need to have their deposit amount adjusted](#), deposits for new fixed-term tenancies should be capped as set out by the Act, which is five weeks' rent where the annual rent is less than £50,000 and six weeks' rent where the annual rent is £50,000 or more.



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Client Money Protection for Letting Agents: Comes into Force in 2021

By 1 April 2021, all letting agents must join an official Client Money Protection scheme (note that this is not the same as a Tenancy Deposit Protection scheme).

Originally set to come into force in 2019, the regulations were pushed back to allow for a 12-month grace period for agents and scheme providers. Despite the concerted effort to prepare the lettings industry for the client money protection requirements, the deadline was pushed back another year.

"Regulation 2 of these regulations substitutes the date of 1 April 2021 for the relevant date of 1 April 2020 set out in regulation 5(2A) of the principal regulations. It therefore has the effect of extending, by a year, the application of the provision for deemed compliance with the requirement to hold client money in a client money account at an authorised bank or building society."

- [Explanatory note for The Client Money Protection Schemes for Property Agents \(Approval and Designation of Schemes\) \(Amendment\) Regulations 2020](#)

It was reported that many agents had struggled to secure a bank account with banks refusing their applications due to the risk involved. If an agent does not have a pooled client account by the time the regulations come into force, their client money protection scheme would have no choice but to expell them.



Regulatory Changes Affecting Letting Agents and Landlords in 2020

This means that letting and property management agents in the private rented sector in England have until 1 April 2021 to secure a pooled client account and join an approved scheme.

According to [GOV.UK](https://www.gov.uk) the approved schemes are:

- [Client Money Protect](#)
- [Money Shield](#)
- [Propertymark](#)
- [RICS](#)
- [Safeagent \(previously NALS\)](#)
- [UKALA Client Money Protection](#)

Apart from joining an approved scheme, you must also:

- Hold your clients' money in an account with a bank or building society authorised by the Financial Conduct Authority
- Get a certificate confirming membership of the scheme you join, and provide it to anyone who asks, free of charge
- Display the certificate confirming membership of the scheme you join in any office where you deal with the public, and on your website

Letting agents in **Wales** need to join a money protection scheme before applying for a licence through Rent Smart Wales. Agents operating in **Scotland** have a different set of requirements which are available on www.mygov.scot Agents in Northern Ireland do not have to join a client money protection scheme yet.



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Conclusion

Apart from the discussed changes above, we can expect more to come as Parliament proceedings begin. The much-discussed **Regulation of Property Agents** and the **Renters' Reform Bill** are just some of the major overhaul we can expect in the near future. The former is largely shaped by the Working Group following the publication of their final report which was discussed by leading industry figures in our ebook, [RoPA: Highlights from an Exclusive Q&A with Industry Leaders](#); the latter was announced in the Queen's Speech in December 2019 suggesting tenancy deposit passporting (or lifetime deposit) and more importantly, the end of no-fault or Section 21 evictions.

What is not changing, for at least the calendar year, is the [right to rent for EU, EEA and Swiss nationals immediately following the UK's Brexit](#).

— EST 2003 —
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A MASSIVE THANK YOU TO EVERYONE WHO HAS
SUPPORTED US OVER THE LAST 16 YEARS



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